

**PROCEEDING BEFORE ALLAN L. MCVEY  
INSURANCE COMMISSIONER OF THE STATE OF WEST VIRGINIA**

**IN THE MATTER OF**

**AMGUARD INSURANCE COMPANY (NAIC 42390)**

**ADMINISTRATIVE PROCEEDING NO. 18-MAP-02000**

**CONSENT ORDER**

This Consent Order is made between AmGUARD Insurance Company (hereinafter, "AmGUARD") and the West Virginia Insurance Commissioner. The effective date of this Consent Order is the date of entry by the Commissioner.

**STIPULATIONS OF FACT AND LAW**

1. Allan L. McVey (hereinafter "the Commissioner") is the duly appointed Insurance Commissioner for the State of West Virginia, and as such is charged with the responsibility of enforcing the various provisions of Chapters 23 and 33 of the West Virginia Code, in addition to the administrative rules promulgated thereunder.
2. AmGUARD is licensed by the Commissioner to transact insurance business in the State of West Virginia as permitted and authorized under Chapter 33 of the West Virginia Code.
3. A market conduct examination was called by the Commissioner on October 13, 2017.
4. The Commissioner's market conduct examiners have observed cases before the Workers' Compensation Office of Judges pertaining to AmGUARD's alleged failure to timely act in four workers' compensation claims.
5. Four of the Petitions resulted in orders finding AmGUARD failed to timely act in alleged violation of various time standards set forth in Chapter 23 of the West Virginia Code and Title 85 of the West Virginia Code of State Rules.
6. The areas of concern, generally speaking, involved the alleged failure of AmGUARD to timely act upon requests for workers' compensation benefits.
7. In addition, the Commissioner entered an Order in Administrative Proceeding Number 18-AP-WCCFTA-02005 finding AmGUARD failed to timely comply with an Order of the Office of Judges and ordering the payment of a one thousand five hundred-dollar (\$1,500.00) penalty by AmGUARD.

8. Although numerically small compared to other carriers in the state of West Virginia and relating back to a period when AmGUARD had significantly more premium in the State of West Virginia than it currently has, the Commissioner's market conduct examiners observed with respect to the aforementioned petitions, AmGUARD has incurred a ratio of orders alleging failure to timely act that is above average in frequency of workers' compensation carriers in relation to its current share of workers' compensation premiums.

9. AmGUARD does not admit to any violations of Chapter 23 of the West Virginia Code and Title 85 of the West Virginia Code of State Rules.

10. In lieu of a market conduct examination, AmGUARD has agreed to voluntarily commence some corrective actions to improve the handling of claims. To that end, AmGUARD submitted a comprehensive corrective action plan, satisfactory to the Commissioner, which set forth a detailed plan to improve the ratios referenced in paragraph 8 above. The corrective action plan includes an audit program, procedural improvements, and additional training for AmGUARD personnel that handle West Virginia Workers Compensation claims. The corrective action plan contains proprietary information and as such is considered a confidential work paper under the provisions of W. Va. Code 33-2-9(1)(4).

### **AGREEMENT AND ORDER**

NOW, THEREFORE, the parties do hereby agree, and it is ORDERED by the Commissioner, as follows:

1. AmGUARD will comply with all statutes and rules of the State of West Virginia concerning workers' compensation claims and/or complaints handled in this state.

2. AmGUARD will continue the corrective actions that it states it has voluntarily commenced. The Commissioner shall monitor AmGUARD for compliance with this Consent Order. This Consent Order is in lieu of the Commissioner performing a market conduct examination pertaining to the issues expressed herein. However, if AmGUARD fails to demonstrate substantial improvement or otherwise fails to comply with this Consent Order or fails to substantially comply with its Corrective Action Plan, the Commissioner may immediately, or soon thereafter, commence a market conduct examination upon AmGUARD. If the Commissioner decides to perform a market conduct examination within one year of the date of this order, AmGUARD shall be responsible for all reasonable expenses associated with the examination.

3. The parties understand that the corrective action plan contains proprietary, confidential and sensitive information. The parties agree that work documents produced in connection with activities related to this Consent Order and any communications shared with the Commissioner related

thereto are confidential pursuant to W.Va. Code §§ 33-2-9 and 33-2-19 subject to any exceptions included in said Code sections.

4. AmGUARD agrees to retain records of all activities set forth in its Corrective Action Plan, including training attendance records, for a period of 6 years from the date of this Order.

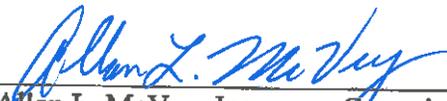
5. AmGUARD understands and agrees that, by executing this Consent Order, it waives any and all rights to an administrative hearing or appeal with respect to the issues addressed herein except in the context of an examination as provided for in W.Va. Code §33-2-9.

6. This Consent Order resolves only those issues addressed herein and the Commissioner reserves and preserves all rights concerning his duties and legal responsibilities as enumerated to him under West Virginia law. More specifically, this Consent Order is not intended and may not be construed to limit the authority of the Commissioner in investigating and taking appropriate action regarding the claim handling practices of AmGUARD concerning a particular claim regarding issues not addressed herein.

IN WITNESS, WHEREOF, AmGUARD and the Commissioner have duly executed this Consent Order as of the dates indicated below.

ENTERED THIS 28<sup>th</sup> day of February, 2018.

**OFFICES OF THE INSURANCE COMMISSIONER  
FOR THE STATE OF WEST VIRGINIA**

  
Allan L. McVey, Insurance Commissioner

Date: 2-28-18

By execution hereof, AmGUARD consents to entry of this Order and agrees to the above terms and conditions.

**AMGUARD INSURANCE COMPANY**

By:  Eitan Aichenbaum

Its: CFU - Chief Financial Officer

Date: 2-27-2018